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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,759

04/14/2004

Stephen G. Holmes

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05/29/2008

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EXAMINER

BRINEY III, WALTER F

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

05/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,759	<b>Applicant(s)</b> HOLMES, STEPHEN G.	
	<b>Examiner</b> WALTER F. BRINEY III	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-17 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 April 2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claims 1-7, 9 and 11-17 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaalaas in view of Sundqvist and further in view of Linz (US Patent 6,005,901).**

**Claims 1-7, 9, 11-17 and 20-25** are rejected for the same reasons set forth in the Final Rejection, 3-4 (28 January 2008).

### ***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter:

**2. Claim 10 is allowable.**

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**Claim 10** is limited to a method for synchronizing audio processing modules.

Although the prior art cited in the rejections of claims 1-7, 9, 11-17 and 20-25 discloses identifying whether two clocks are the same or not and configures the associated audio processing modules based on that identification, the prior art discloses using non-unique  
5 identifiers for each clock source, and instead uses clock rates. Applicant correctly pointed out in its instant remarks that clock rates are not unique to a single clock source since two clocks can have the same clock rate. (Applicant Arguments 12, 28 April 2008). Thus, claim 10 is allowable over the cited prior art.

***Response to Arguments***

10 Examiner has considered Applicant's arguments, but they are not persuasive. Concerning **claims 1, 17 and 21**, Applicant alleges that determining the sample rate of a clock is not sufficient to determine the source of a clock signal. For instance, two clock signals of different clock rates could ultimately originate from a single clock source (presumably after at least one clock is multiplied/divided) while two clock signals of the  
15 substantially same clock rate could be from two different clock sources. (Applicant Arguments 13-14, 28 April 2008). Although Applicant has correctly noted a deficiency in the assumptions employed by the clock identification scheme employed by the prior art, such assumptions should be understood simply as models of the real-world and not absolute truths. Similarly, when audio engineers speak of voice detection, they are  
20 referring to a set of algorithms based on assumptions that flag when a voice is present at a node. For example, the most simplistic voice detection algorithm simply determines if the energy at a node exceeds a silence threshold. Any amount of energy beyond the

silence threshold is considered voice even though a noise signal could just as well eclipse the predetermined silence threshold. In the same way, assuming that two signals of different rates originate from different clocks is nothing more than a simplifying assumption understood to engineers, although the assumption itself may be flawed philosophically. Most importantly, the claim does not specify that the identifiers used are somehow absolutely guaranteed to produce unequivocal identification of the clock sources, so the prior art assumptions are well within the scope of the claim.

Applicant further alleges that the *Sundqvist* and *Linz* implicitly teach that the clocks disclosed therein are never from the same source. (Applicant Arguments 14, 28 April 2008). Without any citations to the references to support this conclusion, Applicant's argument appears to be the mere opinion of Applicant's attorney and is unavailing.

Applicant further alleges that since two different clocks of the same rate will be misidentified by the prior art as the same clock, the prior art fails to disclose a sample rate converter that synchronizes the first flow rate of audio data generated by a first audio processing module and a second flow rate of audio data consumed by a second audio processing module when said first clock source is different from said second clock source. (Applicant Arguments 14-15, 28 April 2008). While Applicant is correct that under this one particular circumstance, the prior art will not operate as claimed, the claim does not require synchronization every time the clock sources are different in fact. Inherently, the sample rate converter must know when the clock sources are different in order to begin synchronization. Accordingly, the act of synchronization is subject to an

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identification procedure that may be flawed as in the prior art since the claim fails to specify how the sample rate converter knows whether the clocks are different.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the  
5 examiner should be directed to WALTER F. BRINEY III whose telephone number is (571)272-7513. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you  
15 have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Walter F Briney III/  
Examiner  
Art Unit 2615

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5/31/08